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Amiga, Inc., f/k/a KMOS, Inc.

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

AMIGA, INC., f/k/a KMOS, INC.,

Civil Action No. 05-CV-8986 (DAB)

Plaintiff,

vs.

GARRY HARE,

**NOTICE OF CROSS-MOTION AND CROSS-  
MOTION TO DISMISS OR, ALTERNATIVELY,  
TO STAY ARBITRATION**

Defendant.

**TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:**

**PLEASE TAKE NOTICE** that based on this Notice of Cross-Motion and Cross-Motion, Plaintiff's Memorandum of Law in Opposition to Defendant's Motion to Dismiss and Compel Arbitration and in Support of Plaintiff's Cross-Motion to Dismiss or, Alternatively, Stay Arbitration, and the Declaration of Pentti Kouri submitted herewith in support thereof, as well as on the pleadings, the records, and files in this action and such further oral and documentary evidence as may be presented, Plaintiff, by its undersigned counsel, hereby moves this Court, pursuant to Section 4 of the Federal Arbitration Act, 9 U.S.C. §4, et seq. (the "FAA"), the Declaratory Judgment Act, 28 U.S.C. §§ 2201 et seq., and the Court's inherent equitable powers,

before the Honorable Deborah A. Batts of the United States District Court for the Southern District of New York, to (i) declare the October 6, 2003 contingent agreement between Plaintiff and Defendant (a copy of which is attached as Exhibit A to the Complaint) void and (ii) dismiss JAMS arbitration Case No. 1100046108 (“the arbitration proceeding”). Alternatively, Plaintiff seeks and Order staying the arbitration proceeding pending resolution of the instant lawsuit. (See Proposed Order attached hereto.)

Respectfully submitted,

REED SMITH, LLP

Dated: December 19, 2005

By: /s/ Robert H. Bernstein  
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